

Appeal Decision

Site visit made on 20 June 2017

by Philip Lewis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 July 2017

Appeal Ref: APP/M4510/W/17/3170313

Westerhope Village Nursery, 384-388 Stamfordham Road, Westerhope, Newcastle upon Tyne NE5 5HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ajeet Chadda, Choice Childcare Ltd against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref 2000/2020/08/RVC, dated 27 April 2016, was refused by notice dated 26 August 2016.
 - The application sought planning permission for development described as 'removal of conditions 12 (details of outdoor play area/nursery garden), 13 (details of noise attenuation) and 15 (car parking area) of permission 2000/2020/01/DET dated 25/5/01 to allow rear of building to be landscaped: Conversion of former police station and police houses to nursery school, alterations and extensions to front and rear and provision of parking and landscaping' without complying with a condition attached to planning permission Ref 2000/2020/07/RVC, dated 24 November 2010.
 - The condition in dispute is No 3 which states that: *the number of child places provided at the nursery school shall be restricted to no more than 59 at any one time.*
 - The reason given for the condition is: *in the interests of amenity and highway safety in accordance with saved policies H2 and T7.1 of the Unitary Development Plan.*
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Decision

1. The appeal is allowed and planning permission is granted for development described as removal of conditions 12 (details of outdoor play area/nursery garden), 13 (details of noise attenuation) and 15 (car parking area) of permission 2000/2020/01/DET dated 25/5/01 to allow rear of building to be landscaped: Conversion of former police station and police houses to nursery school, alterations and extensions to front and rear and provision of parking and landscaping at Westerhope Village Nursery, 384-388 Stamfordham Road, Westerhope, Newcastle upon Tyne NE5 5HE in accordance with the application Ref 2000/2020/08/RVC dated 27 April 2016 subject to the attached schedule of conditions.

Procedural matter

2. The application subject of this appeal is made under Section 73 of the Planning Act and seeks the development of land without complying with a condition subject to which a previous planning permission was granted. The previous permission was also a Section 73 proposal as reflected in the description of development in the header and decision above.
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Background and Main Issue

3. The appellant is seeking to amend the maximum number of child places at the nursery from 59 to 80 at any one time. The Council refused the application on the basis that the proposed increase in child places would give rise to an increase in uncontrolled on-street parking to the detriment of the amenity of local residents. The Council and local residents are concerned that the appeal scheme would give rise to additional on-street parking, consider that it is likely to result in the blocking of accesses into properties and parking on the narrow road, compromising the movement of vehicles and creating a hazard for pedestrians due to pavement parking. The main issue for the appeal therefore is the effect of the appeal scheme upon highway safety with particular regard to any effects of additional on-street parking.

Reasons

4. I saw at my site visit that there is no on-street parking outside of the appeal site on Stamfordham Road, due to parking restrictions, a light controlled junction and bus stops. I observed that there is some unrestricted on-street car parking provision nearby on Wheatfield Road and within the Pilton Park Estate, but noted that the opportunities for on-street parking within the estate are limited by accesses to garages and driveways, junctions and the relatively narrow carriageway widths.
5. The nursery has a car park accessed from Stamfordham Road which provides parking for 14 cars. It is proposed to increase the number of spaces to 16. Whilst some staff parking takes place on site at present, the appellant has stated that staff parking will not be permitted in the car park in the future. The appellant's transport assessment includes surveys of the use of the car park and given the capacity identified and the addition of 2 parking spaces, I am of the view that the proposed increase in child numbers should not give rise to any harmful increase in on-street parking caused by parents dropping off and collecting children.
6. I have had regard to the concerns of the Highways Authority about the surveys undertaken and that the appellant has not provided a framework travel plan or undertaken a full survey of on-street parking associated with the nursery. I have also had regard to the comments of local people concerning on-street parking issues within the Pilton Park Estate and that some residents are elderly and have mobility issues. However, on the balance of evidence, it has not been demonstrated that the area suffers any particular parking stress at the current time, or that the existing on-street parking gives rise to significant harm to highway or pedestrian safety.
7. The appeal proposal would give rise to an increase in staff numbers at the nursery and the staff parking requirement of the nursery will not be met on site. Consequently, there is the potential for an increase in on-street car parking in the wider area, which given the number of additional staff and displaced cars from the existing car park envisaged, would be modest.
8. The appellant has stated that it is intended to provide off-street parking at land between 17 and 19 Pilton Walk, which could be the subject of a planning condition were I minded to allow the appeal. I saw at my site visit that the land is used for off-street parking and understand that it has been so used by residents since the estate was built.

9. Whilst the appellant has set out that the land could be leased to provide parking for up to 8 vehicles for the nursery and that the site would be made available for general parking outside of nursery hours, there is a question as to whether the appellant could have sole use of the land, given its historic use. In any event however, there is no dispute that the area of off-street parking could not be available to the appellant to use, at least in part and whilst it is not clear whether it would continue to be used by local people during nursery hours, I nevertheless take it into account. I have had regard to the comment from the interested person concerning the use of the parking area for visitors, but do not consider that the use of the land by the nursery for parking would give rise to significant harm through an increase in on-street parking due to any such visitor parking being displaced.
10. I am satisfied that there is a prospect of the appellant providing additional off-street parking spaces for use by nursery staff and therefore were I minded to allow the appeal, I could make its provision the subject of a planning condition. I have also considered the planning conditions suggested by the Council. The provision of a travel plan and cycle parking would encourage the use of more sustainable modes of travel by nursery staff, which would assist in reducing parking demand arising from the nursery.
11. Given the modest increase in demand for off-site parking which would arise from the proposal, the existing provision of on-street parking in the area, that it has not been demonstrated that there are significant on-street parking related issues, the provision of on and off-street parking proposed and the implementation of a travel plan and cycle parking for the nursery, an unacceptable increase in on-street parking should not occur. Consequently, the appeal scheme should not result in the blocking of accesses into properties, compromise the movement of vehicles or create a hazard for pedestrians due to pavement parking.
12. The appeal proposal would not therefore give rise to unacceptable harm in respect of highway safety. It does not conflict with the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne Policy CS13 which is concerned with sustainable transport and Policy CS14 which is concerned with wellbeing and health and includes that development should prevent negative impacts on residential amenity. It also does not conflict with Newcastle upon Tyne Unitary Development Plan (UDP) saved Policy H2 which is concerned with the protection of residential amenity and saved UDP Policy T7.1 which amongst other things includes that proposed development which would generate traffic causing demonstrable danger or inconvenience on the public highway or other serious harm to the local environment will be refused.

Other matters

13. Whilst interested persons have expressed concern regarding the increased use of the vehicular access to the nursery and the implications of future housing development and highway works in the area, having had regard to the appellant's Transport Assessment and the response of the Highways Authority, I do not consider that the appeal scheme to be unacceptable in this regard. In respect of any noise impacts, I have had regard to the appellant's noise assessment and do not find that the appeal scheme would give rise to an unacceptable increase in noise in the area. I note the comment regarding the

location of the nursery on Stamfordham Road, but the principle of development is not before me.

Conclusions

14. I therefore vary the permission by amending condition 3 to allow a maximum of 80 child places at the nursery school at any one time. Having had regard to the conditions suggested by the appellant and the Council and to the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG), I have imposed additional conditions regarding the provision of a scheme for off-street parking for the nursery, to increase in the on-site car parking spaces to 16, the provision of cycle parking and the approval and implementation of a travel plan in the interests of highway safety and the living conditions of nearby residents.
15. The guidance in the PPG makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose them all. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Philip Lewis

INSPECTOR

Schedule of conditions

- 1) The number of child places provided at the nursery school shall not exceed 59 at any one time until details of the car parking area (accessible from Stamfordham Road), to be laid out for 16 car parking spaces, has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the number of child places at any time exceeds 59 and shall remain open and accessible for use at all times during the Nursery's hours of operation.
- 2) The premises shall only be used as a nursery school and for no other purpose including any purpose in the Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987.
- 3) The number of child places provided at the nursery school shall be restricted to no more than 80 at any one time.
- 4) The premises shall not be open for business between 1800 hours and 0800 hours Monday to Friday inclusive, nor at any time on Saturdays or Sundays.
- 5) Deliveries shall not be taken at the site between 1800 hours and 0800 hours Monday to Friday inclusive, nor at any time on Saturdays or Sundays.
- 6) The number of children playing in the outdoor play area/nursery garden shall not exceed 16 at any time.
- 7) Full details and layout of the proposed learning garden to the rear of the site shall be submitted to and approved in writing by the Local Planning Authority prior to any work commencing on site.
- 8) The number of child places provided at the nursery school shall not exceed 59 at any one time until a scheme for the provision of off street parking on land between 17 and 19 Pilton Walk has been submitted to and been approved by the Local Planning Authority. The approved scheme shall be implemented in full and maintained thereafter.
- 9) The number of child places provided at the nursery school shall not exceed 59 at any one time until details of cycle parking have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be implemented before the number of child places provided at the nursery school at any time exceeds 59. Thereafter, the cycle parking shall be retained in accordance with the approved details.
- 10) The number of child places provided at the nursery school shall not exceed 59 at any one time until a full Travel Plan is submitted to and approved in writing by the Local Planning Authority. At all times thereafter the approved Travel Plan shall be implemented in accordance with the approved details. The Travel Plan shall include:
 - i) details of and results from an initial staff travel to work survey;
 - ii) clearly specified ongoing targets for staff travel mode shares;
 - iii) a plan for monitoring and reviewing the effectiveness of the Full Travel Plan; and

- iv) a scheme providing for a biennial monitoring report to be submitted to the Local Planning Authority regarding the implementation of the Full Travel Plan